

**Rose Eagle Coal Company, Inc. and United Mine
Workers of America District 17. Case 9-CA-
28232**

9
March 12, 1993

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND RAUDABAUGH

On August 9, 1991, the National Labor Relations Board issued a Decision and Order,¹ inter alia, ordering Rose Eagle Coal Company, Inc., to make whole bargaining unit employees for any losses they may have suffered as a result of the Respondent's failure to provide medical insurance coverage and to pay outstanding medical bills that had become due under a collective-bargaining agreement to which it was a party in violation of the National Labor Relations Act. On June 5, 1992, the United States Court of Appeals for the Fourth Circuit entered a judgment enforcing the Board's Order.

A controversy having arisen over the amount of medical payments due the employees, on October 15, 1992, the Regional Director for Region 9 issued a compliance specification and notice of hearing alleging the amounts due under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with copies of the compliance specification, the Respondent has failed to file an answer.

By letter dated January 12, 1993, counsel for the General Counsel advised Respondent that no answer to the compliance specification had been received and that unless an appropriate answer was filed by January 20, 1993, a Motion for Summary Judgment would be sought. The Respondent filed no answer.

On February 8, 1993, the General Counsel filed with the Board a Motion for Summary Judgment and memorandum in support, with exhibits attached. On February 10, 1993, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on the Motion for Summary Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer

within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the amount of medical expenses due the employees is as stated in the compliance specification.

ORDER

The National Labor Relations Board orders that the Respondent, Rose Eagle Coal Company, Inc., Beckley, West Virginia, its officers, agents, successors, and assigns, shall make whole the individuals named below, by paying them the amounts following their names, plus interest:

Name	Medical Expenses
Baire, Jerry L.	\$364.50
Burns, Ernest	238.50
Carr, David M.	121.00
Castle, Gene R.	100.00
Dolin, Gary L.	1,416.28
Dooley, Tom	192.00
Halstead, Bethel	98.00
Keffer, Eddie	523.00
Loftis, Kenneth	58.04
Mancari, Fred	506.46
Massey, Danny	2,710.81
Mitchell, John	532.10
Tulley, Douglas H.	708.94
Tyo, William	560.50
Weaver, Bruce	1,310.27
Total:	<hr/> \$9,440.40

¹ 303 NLRB No. 164.